United Nations ECE/MP.EIA/IC/2017/4

Economic and Social Council

Distr.: General
18 October 2017

Original: English

Economic Commission for Europe

Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment

Implementation Committee

Thirty-ninth session
Geneva, 5-7 September 2017

Report of the Implementation Committee on its thirty-ninth session

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I. Introduction

1. The thirty-ninth session of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment was held from 5 to 7 September 2017 in Geneva, Switzerland.

A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Ms. Aysel Babayeva (Azerbaijan); Mr. Anders Bengtsson (Sweden); Mr. Volodymyr Buchko (Ukraine); Mr. Libor Dvorak (Czechia); Ms. Maria do Carmo Figueira (Portugal); Mr. Kauppo Heinma (Estonia); Ms. Zsuzsanna Pocsai (Hungary); Mr. Romas Švedas (Lithuania); Mr. Lasse Tallskog (Finland); and Ms. Nadezhda Zdanevich (Belarus).

B. Organizational matters

3. The Chief of the Environment for Europe and Sustainable Development Section of the United Nations Economic Commission for Europe (ECE) Environment Division opened the session.

1. Membership of the Committee

4. The members of the Committee introduced themselves. The Committee elected Mr. Švedas as Chair, in accordance with paragraph 1 (c) of the structure and functions of the Implementation Committee and procedures for review of compliance (ECE/MP.EIA/6, annex II, appendix), as amended (ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4.Add.1, decision VI/2, annex I).[1] The Committee members from Azerbaijan, Belarus and Ukraine stressed the importance for the non-European Union member States to also be represented among the elected officers. The secretariat reminded members that the Committee Chair and Vice-Chairs were to represent Parties that were Parties to both the Convention and the Protocol. Following discussions, the Committee elected Ms. do Carmo Figueira as its first Vice-Chair and Mr. Buchko as its second Vice-Chair.

5. The secretariat announced the list of alternate members that the elected Parties had appointed in the exceptional case that the permanent member was not be able to participate: Ms. Eliska Dvorska (Czechia); Ms. Christina Olson Lundh (Sweden); Mr. Szabolcs Péter Orosz (Hungary); Mr. Rainer Persidski (Estonia); Ms. Maryna Shymkus (Ukraine); Ms. Águeda Silva (Portugal); Ms. Jūratė Usevičiūtė (Lithuania); and Ms. Charlotta von Troil (Finland). The members of Azerbaijan and Belarus reported that they were still in the process of finalizing the appointment of alternate members and would inform the secretariat by the Committee's next session.

[1] A consolidated version of the text is available as an electronic publication on the Committee's website (http://www.unece.org/env/eia/implementation/implementation_committee.html).

2. Adoption of the agenda

6. The Committee adopted its agenda (ECE/MP.EIA/IC/2017/3),[2] prepared by the Convention secretariat in agreement with Mr. Felix Zaharia, who served as Chair of the Implementation Committee until the seventh session of the Meeting of the Parties to the Convention and the third session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (Meeting of the Parties to the Protocol) (Minsk, 13–16 June 2017).

3. Work methods and rules of procedure

7. The Committee preliminarily agreed to hold virtual (WebEx) meetings on a once-a-month basis, as required, and provided that the dates of the meetings were communicated to the Committee members well in advance. The meetings were to be held in English. It decided to postpone discussions on the possible revision of the Committee's rules of procedure until the newly appointed members of the Committee had had the chance to become more familiar with the functioning of the Committee.

II. Review of decisions of the Meetings of the Parties

8. The Committee reviewed decisions taken by the Meetings of the Parties to the Convention and the Protocol at their seventh and third sessions, respectively, in particular on the review of implementation, the review of compliance and the adoption of the workplan (see ECE/MP.EIA/23-ECE/MP.EIA/SEA/7 and Add.1-3).

9. The Committee noted the need for the Meeting of the Parties to the Convention to continue its deliberations on draft decision VII/2 on the review of compliance with the Convention (ECE/MP.EIA/2017/8) at an "intermediary" session of the Meeting of the Parties, preliminarily scheduled for late 2018 or early 2019, and the mandate for the Committee to prepare a revised draft decision VII/2 for that session (ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27). The secretariat informed the Committee about the work already carried out and the progress achieved before, during and in the margins of the seventh session of the Meeting of the Parties to the Convention that the Committee was requested to take into account when revising the draft decision, including:

(a) The results of the Committee's ad hoc session held on 12 June in Minsk prior to the sessions of the Meetings of the Parties;

(b) The deliberations by the Meeting of the Parties to the Convention at its seventh session on draft decision VII/2;

(c) Discussions the Committee members held in the margins of the sessions of the Meetings of the Parties to facilitate agreement on draft decision VII/2.

10. The Committee agreed that it should prepare a first version of the revised draft decision in advance of the seventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 28-30 May 2018) to provide the delegations a possibility to comment the draft in advance of the intermediary session of the Meeting of the Parties.

11. Prior to reviewing the general and country-specific parts of draft decision VII/2, the Committee noted the decision of the Meeting of the Parties to the Convention to establish

[2] Documents for the meeting are available on a dedicated web page of the ECE website: http://www.unece.org/index.php?id=45292.

an ad hoc working group to prepare terms of reference for developing a possible guidance on the application of the Convention to the lifetime extension of nuclear power plants (ibid., para. 12). It agreed to discuss how it could facilitate the work of the ad hoc group based on its experience on compliance issues concerning the lifetime extension of nuclear energy-related activities.

12. Regarding the paragraph 5 of the general part of draft decision VII/2, the Committee decided to resume its consideration at its next session, taking into account the progress achieved during and in the margins of the seventh session of the Meeting of the Parties to the Convention, and the comments on that paragraph provided by all the Parties, including Belarus.

13. The Committee agreed to discuss at its next session(s) the proposal by Ukraine to the Meetings of the Parties that future compliance decisions for each individual compliance issue be presented to the Meeting(s) of the Parties in separate documents (ibid., para. 28).

III. Follow-up to decision VI/2

14. Discussions on the follow-up to decision VI/2 of the Meeting of the Parties were not open to observers, according to rule 17, paragraph 1, of the Committee's operating rules, and were held in the absence of the members nominated by Azerbaijan, Belarus, Lithuania and Ukraine during the consideration of the cases concerning their countries.

A. Ukraine

1. Bystroe Canal Project (EIA/IC/S/1)[3]

15. With a view to preparing a revised text of draft decision VII/2 for the consideration of the Meeting of the Parties to the Convention at its intermediary session, the Committee considered the follow-up by Ukraine on decision VI/2 in relation to the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian Sector of the Danube Delta (Bystroe Canal Project). It recalled that in Minsk the Meetings of the Parties had welcomed the adoption by Ukraine of the law on environmental impact assessment. Consequently, the Committee members present at that session had informally agreed in the margins of the session on a revised text of paragraphs 13-28 of draft decision VII/2, but the Meeting of the Parties had not had time to consider the revised text during the plenary session.

16. Before leaving the room, the Committee member from Ukraine informed the Committee that the newly adopted law of Ukraine would enter into force on 18 December 2017 and that Ukraine was in the process of preparing eight implementing regulations foreseen by the law. After having considered a legal opinion on the compatibility of the Ukrainian law with the provisions of the Convention prepared by consultants to the secretariat in summer 2017,[4] the Committee noted that the law provided a rather comprehensive legal framework for the practical implementation of the Convention. It stressed the importance of also ensuring the compliance of the subsidiary legislation with

[3] Information on this compliance case is available from http://www.unece.org/env/eia/implementation/implementation_committee_matters.html.

[4] The consultants were hired to assist the secretariat in updating the draft "Overview of legislative and administrative reforms for implementing strategic environmental assessment in Eastern Europe and the Caucasus", an activity under the 2014-2017 workplan funded by the European Commission in the framework of the Greening Economies in the Eastern Neighborhood (EaP GREEN) programme.

the Convention. The secretariat reported that at present it was not in a position to facilitate further legal assistance to Ukraine in that regard owing to a lack of funding.

17. Based on the analysis by the curator for the matter, the Committee noted that Ukraine had made only limited progress in bringing the project into compliance with the Convention as required by the Meetings of the Parties since 2008 in its decisions IV/2,[5] V/4[6] and VI/2.[7]

18. Taking into account the discussions of the Committee members in the margins of the seventh session of Meeting of the Parties to the Convention, the Committee decided to assist Ukraine in addressing its persistent non-compliance with the Convention. To that end, it agreed to prepare an action plan with concrete steps to be taken by Ukraine to bring the Bystroe Canal Project into full compliance with the Convention. It also decided to invite Ukraine to take part in the Committee's forty-first session (Geneva, 13–15 March 2018) with a view to discussing and clarifying the proposed steps and the time frame for their implementation. The Committee would subsequently revise draft decision VII/2 regarding the Bystroe Canal Project for the consideration of the Meeting of the Parties at its intermediary session.

19. The Committee asked the curator to prepare a draft action plan by the end of September and to make it available for the analysis of the Committee members and for discussion at the Committee's fortieth session (Geneva, 5-7 December, 2017).

20. The Committee further invited the Chair to write to Romania and to Ukraine asking for an update on the ongoing consultations between the two countries on the post-project analysis and the recent developments in concluding a bilateral agreement on the implementation of the Convention. Romania and Ukraine should provide their views by the end of October 2017.

2. Rivne nuclear power plant (EIA/IC/CI/4)[8]

21. The Committee continued its consideration of the follow-up by Ukraine with regard to decision VI/2 concerning the lifetime extension of the Rivne nuclear power plant (para. 71). It nominated a curator for the matter.

22. The Committee noted the information received from Austria on 18 May 2017 that Ukraine had informed Austria about its intention to conduct a transboundary environmental impact assessment procedure with respect to the Rivne nuclear power plant between 2017 and 2018, and that Austria wished to be notified in accordance with the Convention and to receive clarifications from Ukraine on how the results of the transboundary procedure would be taken into account.

23. The Committee then reviewed the relevant section of draft decision VII/2 (ECE/MP.EIA/2017/8, paras. 29-37), which outlined specific measures to assist Ukraine in addressing its non-compliance with regard to the activity, taking into account the informal discussions held by the Committee members in the margins of the June 2017 sessions of the Meetings of the Parties.

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[5] ECE/MP.EIA/10, decision IV/2, paras. 12-14.

[6] ECE/MP.EIA/15, decision V/4, para. 24.

[7] ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1, decision VI/2, paras. 24-25.

[8] Information on this compliance case is available from http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html.

24. Pending the consideration by the Meeting of the Parties of draft decision VII/2 at the intermediary session, and with a view to addressing the compliance issue without delay, the Committee decided to make recommendations to Ukraine, subject to the Party's agreement, further to the Committee's operating rule 14 (b). Consequently, the Committee asked the Chair to write to the Government of Ukraine to request it to take, without delay, concrete steps to comply with the Convention with respect to the lifetime extension of units 1 and 2 of the Rivne nuclear power plant including:

(a) Notifying all potentially affected Parties (including Austria, Belarus, Hungary, Poland, the Republic of Moldova, Romania and Slovakia), in accordance with article 3 of the Convention;

(b) Preparing the environmental impact assessment documentation, including on transboundary aspects, pursuant to article 4 of the Convention;

(c) Carrying out consultations with authorities of the affected Parties based on the environmental impact assessment documentation, as set out in article 5 of the Convention;

(d) Ensuring public participation in accordance with the Convention;

(e) Revising the final decision taking into account the outcomes of the environmental impact assessment procedure, including the environmental impact assessment documentation and comments received by the affected Parties, further to article 6 of the Convention.

In his letter, the Chair should request Ukraine to report to the Committee by 30 January 2018 on its progress in implementing the above steps.

25. The Committee requested the curator to prepare by 15 February 2018 an analysis of the information to be provided by Ukraine and a revised text of paragraphs 29-37 of draft decision VII/2 for the Committee to consider at a virtual session (to be held in the last week of February 2018), with a view to finalizing the new text at its forty-first session.

B. Armenia

1. Law on environmental impact assessment (EIA/IC/CI/1)[9]

26. The Committee then turned to consider the follow-up by Armenia on decision VI/2 (paras. 31-32) and nominated a new curator for the matter. The Committee recalled that Armenia had adopted its Law on Environment Impact Assessment and Expertise in 2014, and that it was in the process of amending that law to bring it fully into line with the Convention and the Protocol with the support of the secretariat and funding from the European Union Greening Economies in the Eastern Neighbourhood (EaP GREEN) programme. The amendments were expected to undergo intergovernmental consultations in autumn 2017.

27. Further to the curator's analysis of the matter and the assessment of the proposed amendments to the Armenian law by an ECE consultant of 2 September 2017, the Committee agreed to request additional information from Armenia and to resume its consideration of the matter at its subsequent sessions.

[9] Information on this compliance case is available from http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html.

28. To that end, the Committee asked its Chair to write to the Government of Armenia asking it to provide the following information to the Committee by no later than the end of October 2017:

(a) A description of concrete steps and a detailed timeline for the amendment of the Law on Environment Impact Assessment and Expertise and the relevant subsidiary legislation;

(b) A list and a short description of the subsidiary regulations to be elaborated and adopted by the Government of Armenia to ensure full compliance of the proposed environmental impact assessment and strategic environmental assessment schemes with the Convention and the Protocol;

(c) An exhaustive overview of how the comments provided by the experts and stakeholders since February 2017 had been taken into account when preparing amendments to the law and the subsidiary legislation, including a description of:

(i) The improvements made to better regulate the environmental impact assessment and strategic environmental assessment processes as two distinct procedures so as to facilitate the practical application of the legislation;

(ii) Public participation procedures at the national level;

(d) Clarifications on:

(i) What constituted the "final decision" with respect to the activities;

(ii) How the amended law ensured the implementation of article 6, paragraph 1, of the Convention concerning the obligation of public authorities to take due account in the final decision of the outcomes of the environmental impact assessment, including the environmental impact assessment documentation and the comments received pursuant to article 3, paragraph 8, and article 4, paragraph 2, and the outcome of the consultations referred to in article 5 of the Convention;

(iii) What amendments had been introduced to ensure that sufficient time frames were set to allow for the timely and effective notification of the public of the planned activities (plans or programmes) and the safeguarding of effective public participation (including public hearings) within the proposed strategic environmental assessment and environmental impact assessment procedures.

29. In his letter, the Chair should also request Armenia to provide for the Committee's review and evaluation the English translations of the amended law and information on the name and the cor•ent of the subsidiary legislation. To assist Armenia, the Committee asked the secretariat to forward the consultant's analysis of 2 September 2017 to Armenia as soon as possible, encouraging Armenia to take it into consideration when finalizing the amendments to the law.

30. Finally, with a view to finalizing the revised text of draft decision VII/2 regarding the Armenian legislation for the implementation of the Convention (paras. 38-44) for consideration by the Meeting of the Parties at its intermediary session, the Committee requested the curators for the matter to prepare by 15 November 2017 their analysis of the information expected from Armenia.

2. Metsamor nuclear power plant (EIA/IC/S/3)[10]

31. The Committee reviewed the comments to the text of draft decision VII/2 regarding the planned construction of the Metsamor nuclear power plant (paras. 45-47) provided by Armenia and Azerbaijan at the seventh session of the Meeting of the Parties. Recalling its deliberations on the matter during the previous intersessional period (see ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4, paras. 27-29), the Committee decided not to modify the text of draft decision VII/2 regarding the Metsamor nuclear power plant, aside from a minor editorial improvement. The Committee also requested the secretariat to have the inaccuracies in the Russian translation of paragraph 47 rectified.

C. Azerbaijan

32. The Committee continued its consideration of the follow-up by Azerbaijan on decision VI/2 regarding its national legislation for the implementation of the Convention (paras. 41–42), and appointed new co-curators for the matter.

33. The Committee recalled that at its thirty-eighth session (Geneva, 20–22 February 2017) it had decided to invite Azerbaijan to a hearing during its fortieth session to clarify the reasons for the difficulties in adopting a law for the implementation of the Convention despite the technical assistance provided to the country since 2012. Consequently, the co-curators were invited to finalize by the end of September 2017 draft questions for the Committee to agree electronically in early October.

34. The Committee asked its Chair to write to the Government of Azerbaijan inviting it to provide written replies to the Committee's questions through the secretariat, in English, by no later than 15 November 2017, and to be prepared to answer them during the hearing. Azerbaijan should also be made aware that the questions might still be subject to modifications by the Committee and that additional questions could be asked during the hearing. Finally, the Chair should reiterate the invitation to Azerbaijan to provide the secretariat with the names of its respective delegates as soon as possible.

35. The Committee also reviewed the comments that Azerbaijan had provided to draft decision VII/2 regarding its own country (paras. 48-53) at the seventh session of the Meeting of the Parties. However, pending the receipt of new information on the compliance of Azerbaijan with the Convention, the Committee decided not to modify the text of draft decision VII/2 regarding Azerbaijan.

D. Belarus

36. Then, under the chairmanship of its first Vice-Chair, the Committee turned to the follow-up by Belarus with decision VI/2 (paras. 48–64) regarding the Ostrovets nuclear power plant. The Committee appointed new co-curators for the matter. After the secretariat's recap of the matter, the Committee decided to resume its deliberations at its next session, including to review and revise the draft decision VII/2 regarding Belarus. It requested the new curators to prepare, by 15 November 2017, an analysis of the matter including recommendations on the next steps and specific language of the relevant paragraphs of the draft decision, taking into account the Committee's deliberations at its ad hoc session in Minsk, the discussions held during and in the margins of the seventh session of the Meeting of the Parties and the information received after the session from

[10] Information on this compliance case is available from http://www.unece.org/env/eia/implementation/implementation_committee_matters.html.

Lithuania on 31 August 2017 and on 5 September 2017 from the Lithuanian Green Party, the non-governmental organization (NGO) Ecohome (Belarus) and the Lithuanian Farmers and Greens Union (also known as the Peasants and Greens Union).

IV. Submissions

37. A representative of the secretariat noted that no submissions had been received since the Committee's previous session and that there were no earlier submissions still under consideration.

V. Committee initiative[11]

Committee initiative on the United Kingdom of Great Britain and Northern Ireland

38. The Committee continued the consideration of its initiative on the United Kingdom of Great Britain and Northern Ireland regarding the planned construction of the Hinkley Point C nuclear power plant (EIA/IC/CI/5), appointing a new curator for the matter.

39. The Committee reviewed its recommendations as supplemented at its thirty-eighth session, taking into account comments received on 2 August 2017 from the United Kingdom on those modifications. The Committee also considered the discussions held during the seventh session of the Meeting of the Parties with respect to paragraphs 69-72 of draft decision VII/2.

40. Further to the curator's analysis of the information provided by the United Kingdom on 26 April 2017 and 2 August 2017, the Committee noted that the United Kingdom had contacted all the Parties to the Espoo Convention and then entered into discussions with those Parties that had indicated to it that they would find a notification regarding the activity at Hinkley Point C useful (i.e., Germany, Ireland, the Netherlands and Norway) or that had expressed their interest in further discussions and/or information about the planned activity (Denmark and Luxembourg). The Committee further noted that, on 28 July 2017, the United Kingdom had shared information with the Parties that had expressed interest in receiving a notification or further information about the activity and had offered them "an opportunity to comment in relation to potential transboundary impacts" by 20 October 2017 so as to give those Parties "ample opportunity to consult their public (should they consider it necessary)".

41. Welcoming the ongoing consultations with the interested Parties, the Committee then agreed to resume its discussions on the matter at its next session with a view to finalizing the recommendations for consideration of the Meeting of the Parties at its intermediary session. It requested the Chair to write to the United Kingdom to ask it to inform the Committee by 15 November 2017 about the outcomes of the consultations with the interested Parties and how those outcomes were addressed by the United Kingdom.

42. Following further deliberations on the matter, the Committee maintained that in its view the United Kingdom was to refrain from carrying out works with respect to the planned activity until the transboundary environmental impact assessment procedure was

[11] Information on Committee initiatives, including relevant documentation, is available from http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html.

finalized, considering that such works, including earthworks and civil construction activities, might render the results of the procedure irrelevant.

VI. Information gathering[12]

A. Convention matters

1. General opinion regarding the extension of the lifetime of nuclear reactors

43. The Committee noted that at its seventh session the Meeting of the Parties had decided not to mandate the Committee to develop general guidance or criteria on the application of the Convention to the lifetime extension of nuclear power plants in the intersessional period 2017–2020, but to establish instead an ad hoc working group to prepare draft terms of reference for a possible such guidance. That group was to first meet in the third quarter of 2017 under the leadership of Germany and the United Kingdom and to produce draft terms of reference for discussion at a workshop to be held during the seventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment in May 2018 with the participation of the Implementation Committee, civil society and possibly the International Atomic Energy Agency and the Organization for Economic Cooperation and Development Nuclear Energy Agency.

44. To support the preparation of the guidance, the Committee agreed that its Chair should write to the lead countries of the ad hoc group:

(a) To share with the group the following material:

(i) The Committee's draft working paper on criteria to be considered when assessing compliance with the Convention of decisions to extend the lifetime of nuclear power plants, developed at the initiative of the former Committee Chair to guide the Committee's deliberations on the numerous related compliance issues brought before it;

(ii) The findings and recommendations (ECE/MP.EIA/IC/2014/2, annex) prepared by the Committee further to a Committee initiative concerning Ukraine regarding the Rivne nuclear power plant (EIA/IC/CI/4), which set a precedent with regard to the application of the Convention to the lifetime extension of nuclear power plants;

(iii) Relevant information provided by civil society representatives;

(b) To stress the importance of the guidance with respect to the continuously growing number of information-gathering cases on the lifetime extension of nuclear power plants before the Committee since 2014, but also to address a legal uncertainty and to build trust among the public, who were increasingly concerned about aging nuclear power plants both in their own and neighbouring countries;

(c) To highlight the Committee's readiness to assist the ad hoc group in the preparation of such guidance.

[12] More information on information-gathering cases, including relevant documentation, is available from http://www.unece.org/environmental-policy/treaties/environmental-impact-assessment/areas-of-work/review-of-compliance/information-from-other-sources.html.

2. Belgium (EIA/IC/INFO/18)

45. The Committee then continued its consideration of the information it had gathered regarding the lifetime extension of reactors at the Doel and Tihange nuclear power plants in Belgium. The curator for the matter presented his analysis of the information received from the competent authority of Belgium on 18 July 2017, from the German Federal States of North Rhine-Westphalia and Rhineland-Palatinate on 15 February 2017 and from the German Nature and Biodiversity Conservation Union on 11 March, 24 March and 17 August 2017. The Committee agreed that its Chair should request the following further clarifications:

(a) From Belgium regarding the 2015 opinion of the Conseil d'Etat with respect to the amendments to the draft legislation on the security of energy supply;

(b) From Germany regarding communication among various stakeholders in a transboundary environmental impact assessment procedure.

46. In addition, in his letter, the Chair should encourage a dialogue between Belgium, Germany and the other stakeholders.

47. The required information should be provided by 1 November 2017 through the secretariat and then analysed the curator by 15 November 2017 for the Committee's consideration at its next session.

3. Czechia (EIA/IC/INFO/19)

48. The Committee continued its consideration of the information it had gathered further to the information received from five NGOs from Austria, Czechia and Germany concerning the lifetime extension of four units at the Dukovany nuclear power plant in Czechia. Based on the analysis by the curator of the information received in response to the Committee's letter of 21 December 2016 from Austria (on 10 January 2017), from Czechia (on 3 February 2017), from Germany (on 2 February 2017) and from Slovakia (on 3 February 2017), and additional information from the five NGOs received on 1 February 2017, the Committee invited its Chair to request the Government of Czechia to inform the Committee by the end of October 2017 about the state of play concerning the lifetime extension of units 2, 3 and 4 and the related environmental impact assessment procedure.

49. The Committee also asked the Committee Chair to resubmit to the Governments of Poland and Slovakia the following questions:

(a) Has your Government been notified about the planned extension of the Dukovany nuclear power plant and, if yes, when?;

(b) Does your country consider itself a potentially affected Party with respect to this planned activity?;

(c) If your country considers that it could be potentially affected but has not been notified, has your Government made use of the mechanism provided for in article 3, paragraph 7, of the Espoo Convention?

50. Finally, the Committee also requested its Chair to invite the five NGOs to provide it with any further information regarding the planned activities, if available.

4. Ukraine (EIA/IC/INFO/20)

51. The Committee appointed a new curator for the information gathering that the Committee had begun further to the letter from the NGO Central and Eastern European Bankwatch Network of 1 August 2016 concerning the lifetime extension of 11 units located at the Rivne, South-Ukrainian, Zaporizhzhya and Khmelnitsky nuclear power plants in

Ukraine. The Committee requested the new curator to prepare an analysis of the information expected from Ukraine further to the Committee's request at its thirty-eighth session (ECE/MP.EIA/IC/2017/2, para. 40) and decided to resume its deliberations at its next session.

5. The Netherlands (ECE/IC/INFO/15)

52. The Committee also continued to consider the information it had gathered regarding the lifetime extension of the Borssele nuclear power plant in the Netherlands. Further to the curator's analysis of the information provided by the Netherlands on 3 February 2017, however, the Committee agreed on the need to address the information related to lifetime extension of nuclear power plants in a consolidated way and based on a comparative analysis. Consequently, it agreed to resume its discussion on all the related cases at its next session. It invited the corresponding curators to prepare by 15 November 2017 their analyses of the available information in a systematic way.

6. Ukraine (EIA/IC/INFO/10)

53. The Committee recalled that at its thirty-fourth session (Geneva, 8-10 December 2015) it had agreed that, since Ukraine had terminated the cooperation agreement with the Russian Federation for the construction and financing of units 3 and 4 at the Khmelnitsky nuclear power plant, thus ending the implementation of the activity, there was no need for it to further pursue the information-gathering procedure (EIA/IC/INFO/10), which it had initiated further to the information received on 26 October 2012 from a Belarusian non-governmental organization. However, the Committee noted that, based on information received from Poland dated 11 July 2017, Ukraine had in the meantime resumed its investment activities for the construction of units 3 and 4 at the Khmelnitsky nuclear power plant and had invited Poland to continue the transboundary environmental impact assessment procedure regarding the project. Consequently, the Committee appointed a new curator for the matter and decided to resume its information gathering at its next session, time permitting.

7. Spain (EIA/IC/INFO/22)

54. The Committee also continued its consideration of the information dated 27 January 2017 by the Portuguese political party Pessoas-Animais-Natureza concerning the planned construction of a temporary spent fuel storage facility at the Almaraz nuclear power plant in Spain.

55. The Committee asked the Chair to send a letter to Spain requesting it to provide by the end of October 2017 clarifications about:

(a) The planned activity, including its location, technical parameters and the current status;

(b) The transboundary environmental impact assessment procedure carried out by Spain in relation to that planned activity.

56. In addition, the Committee asked the Chair to write to the Government of Portugal to request information about its participation in the transboundary environmental impact assessment procedure with respect to the planned activity and the outcomes of that procedure. Based on the information to be provided by both Parties the Committee agreed to resume its consideration of the matter at its subsequent sessions.

8. Ugljevik thermal power plant (EIA/IC/INFO/16)

57. Further to the information received on 18 September 2014 from the NGO Centre for Environment (Bosnia and Herzegovina) the Committee continued its consideration of the information it had gathered concerning the planned construction of a third block for the thermal power plant in Ugljevik, Bosnia and Herzegovina, close to the border with Serbia. The Committee took note of information received from Bosnia and Herzegovina dated 3 May 2017, from Serbia dated 21 July and 7 August 2017 and from the secretariat on 6 September concerning the receipt of a letter from Centre for the Environment on the same date. Further to the curator's analysis of the information and owing to time constraints, the Committee decided to resume its consideration of the matter at its next session.

9. Stanari thermal power plant (EIA/IC/INFO/17)

58. The Committee then continued its consideration of the information it had gathered further to the information received on 18 September 2014 from the NGO Centre for Environment on the planned construction of a new thermal power plant in Stanari, Bosnia and Herzegovina, close to the border with Croatia. The Committee considered the information received from Croatia on 18 July 2017 and noted that Croatia was unable to determine whether it could exclude the significant adverse transboundary environmental impact on its territory related to the planned activity pending: (a) the receipt from Bosnia Herzegovina of the information regarding the proposed activity that Croatia had attempted to obtain since 2014; and (b) consultations with Bosnia Herzegovina as the Party of origin.

59. The Committee invited the Chair to write to both Parties to recommend that they enter into discussions as soon as possible according to article 3, paragraph 7, of the Convention for the purpose of determining whether a significant adverse transboundary impact owing to the planned activity was likely. The Parties concerned should be invited to inform the Committee by the end of October 2017 about the outcomes of those discussions. The Committee decided to continue its consideration of the matter at its next session further to the analysis of the information to be prepared by the curator by 15 November 2017.

10. Belarus (EIA/IC/INFO/21)

60. The Committee considered its information gathering regarding the recently adopted law of Belarus on state ecological expertise, strategic environmental assessment and environmental impact assessment. Further to the preliminary assessment of that law by the curator, the Committee noted that it had several deficiencies vis-á-vis the Convention. It requested the curator to prepare by 15 November 2017 a written assessment of the law and the relevant subsequent legislation, including draft recommendations to Belarus on how to bring its legal framework into full compliance with the Convention. To enable its further consideration of the matter, the Committee invited the Chair to request Belarus to provide the Committee with its relevant regulation on public participation and excerpts concerning transboundary environmental impact assessment from the Belarusian law on environmental protection.

B. Protocol matters

Serbia (SEA/IC/INFO/1)

61. The Committee appointed a curator for its information gathering concerning compliance by Serbia with the Protocol on Strategic Environmental Assessment regarding the Government's Energy Strategy and Spatial Plan. It decided to continue its deliberations on the matter at its next session. To that end it invited the newly appointed curator to

analyse by 15 November the information received since the Committee's thirty-eighth session.

C. New information from other sources

62. The Committee took note of the information provided by the following NGOs since its thirty-eighth session:

(a) By Ekotim (Bosnia and Herzegovina) on 14 April 2017 concerning the planned construction by Bosnia and Herzegovina of coal power plants in Banovici and Tuzla, close to the border with Croatia and Serbia;

(b) By a German civil initiative on 20 June 2017 concerning the planned construction of taxiways at Zurich airport, close to the border with Germany, and the modification or adaptation of the operating regulations;

(c) By Eco-TIRAS International Environmental Association of River Keepers (Republic of Moldova) on 24 March 2017 concerning the Programme of Ukraine for Hydro Energy Development for the Period till 2026.

63. The Committee appointed curators for the matters and asked them to prepare by 15 November 2017 analyses of the information received with a view to considering each matter separately at its subsequent sessions.

64. The Committee also took note of the information received on 17 August 2017 from the Portuguese political party Pessoas-Animais-Natureza concerning the planned lifetime extension of the Santa Maria de Garoña nuclear power plant. Further to the analysis of that information by the newly appointed curator, the Committee asked its Chair to request Spain to inform the Committee by the end of October 2017 about:

(a) The status of operation of the Santa Maria de Garoña nuclear power plant;

(b) The plans of the Government of Spain regarding that nuclear power plant, including the next steps to be taken.

65. The Committee agreed to resume its deliberations on the matter at its thirty-eighth session and asked the curator to prepare by 15 November 2017 an analysis of the information to be received from Spain.

VII. Review of implementation

A. Specific compliance issues under the Protocol[13]

European Union (SEA/IC/SC1/1/4)

66. The Committee also appointed a new curator for the specific compliance issue arising from the second review of implementation of the Protocol concerning the reporting obligation of the European Union. It requested the curator to prepare the analysis of the matter by 15 November 2017 with the view to continuing its deliberations on the matter at its thirty-eighth session.

[13] More information on specific compliance issues is available from http://www.unece.org/env/eia/implementation/implementation_committee_letters.html.

B. Examination of general and specific compliance issues from the fifth review of implementation of the convention and the second review of implementation of the Protocol

67. The Committee took note of informal documents by the secretariat highlighting general and specific compliance issues identified in the fifth review of implementation of the Convention (ECE/MP.EIA/2017/9) and the second review of implementation of the Protocol (ECE/MP.EIA/SEA/2017/9), adopted by the Meetings of the Parties to the Convention and the Protocol through decisions VII/1 and III/1, respectively. It appointed curators and asked them to review the two informal documents and prepare proposals for the Committee on possible follow-up with the specific issues of non-compliance identified.

C. Modification of the questionnaires

68. The Committee approved the timetable proposed by the secretariat for the review and possible modification of the questionnaires for reporting on implementation of the Convention and the Protocol in the period 2016–2017, for the sixth review of implementation of the Convention and the third review of implementation of the Protocol.

69. The Committee nominated curators to oversee the review and the possible modification of the questionnaires on the implementation of the Convention and the Protocol and to present the outcomes of their work by 15 September 2017, for the Committee's consideration at its fortieth session.

VIII. Presentation of the main decisions taken and closing of the session

70. The Committee confirmed that it would next meet in from 5 to 7 December 2017. It also agreed that in 2018 it would hold its forty-first session from 13 to 15 March, its forty-second session from 11 to 13 September and its forty-third session from 4 to 6 December. All the meetings would be held in Geneva.

71. The Committee adopted the draft report of its session, prepared with the support of the secretariat. The Chair then formally closed the thirty-ninth session.